

Exhibit 359

(Filed Under Seal)

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Page 1

1 ** H I G H L Y C O N F I D E N T I A L **

2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Civil Action No. 1:15-cv-07488-CM

5 -----x

6 IN RE NAMENDA DIRECT PURCHASER

7 ANTITRUST LITIGATION

8 -----x

9 August 29, 2017

10 8:49 a.m.

11

12

13 Videotaped Deposition of FOREST

14 LABORATORIES, LLC; ACTAVIS, PLC; FOREST

15 LABORATORIES, INC.; and FOREST LABORATORIES

16 HOLDINGS LTD., by MARK DEVLIN, taken by

17 Plaintiffs, pursuant to Rule 30(b)(6)

18 Notice, held at the offices of Garwin

19 Gerstein & Fisher LLP, 88 Pine Street, New

20 York, New York, before Todd DeSimone, a

21 Registered Professional Reporter and Notary

22 Public of the State of New York.

23

24

25

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<p>Page 86</p> <p>[REDACTED]</p>	<p>Page 88</p> <p>[REDACTED]</p>
<p>Page 87</p> <p>[REDACTED]</p> <p>5 MR. TOTO: I object to form, 6 lacks foundation, calls for speculation, 7 mischaracterizes the document.</p> <p>[REDACTED]</p>	<p>Page 89</p> <p>[REDACTED]</p>

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<p>Page 90</p> <p>[REDACTED]</p> <p>21 MR. TOTO: I object to form.</p> <p>[REDACTED]</p>	<p>Page 92</p> <p>[REDACTED]</p>
<p>Page 91</p> <p>[REDACTED]</p> <p>11 MR. TOTO: The document speaks</p> <p>12 for itself.</p> <p>[REDACTED]</p>	<p>Page 93</p> <p>[REDACTED]</p> <p>7 MR. TOTO: I object to form.</p> <p>[REDACTED]</p> <p>12 MR. TOTO: I object to form.</p> <p>13 A. No.</p> <p>[REDACTED]</p>

24 (Pages 90 - 93)

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<p style="text-align: right;">Page 170</p> <p>[REDACTED]</p> <p>6 MR. TOTO: I object to form.</p> <p>[REDACTED]</p> <p>18 MR. TOTO: I object to form,</p> <p>19 lacks foundation.</p> <p>[REDACTED]</p>	<p style="text-align: right;">Page 172</p> <p>[REDACTED]</p> <p>9 MR. TOTO: Objection. Those</p> <p>10 documents speak for themselves.</p> <p>[REDACTED]</p>
<p style="text-align: right;">Page 171</p> <p>1 MR. TOTO: I object to form,</p> <p>2 lacks foundation.</p> <p>[REDACTED]</p> <p>9 MR. TOTO: I object to form,</p> <p>10 lacks foundation.</p> <p>[REDACTED]</p> <p>22 MR. TOTO: I object to form,</p> <p>23 argumentative, mischaracterizes his</p> <p>24 testimony.</p> <p>[REDACTED]</p>	<p style="text-align: right;">Page 173</p> <p>[REDACTED]</p> <p>22 (Devlin Exhibit 20 marked for</p> <p>23 identification.)</p> <p>24 Q. So the document I have marked</p> <p>25 as Exhibit 20 bears Bates number</p>

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1 FRX-AT-01775242. It's an e-mail -- or it's
2 a document from Namenda XR Brand Team to
3 various folks and CC'd to various
4 individuals, including you, correct?
5 A. Correct.
6 Q. I'm sorry?
7 A. Correct.

[REDACTED]

25 MR. TOTO: I will just note

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[REDACTED]

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1 before you go on, Counselor, that the
2 metadata, which is on the second page of
3 the document does have different dates. So
4 I'm not sure which date is accurate.
5 MR. SORESEN: Yeah. You are
6 referring to the metadata document,
7 [REDACTED].
8 MR. TOTO: That's right.
9 MR. SORESEN: Understood.

[REDACTED]

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[REDACTED]

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<p style="text-align: right;">Page 178</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>7 (Devlin Exhibit 21 marked for</p> <p>8 identification.)</p> <p>9 Q. Sir, I have shown you an</p> <p>10 exhibit marked Exhibit 21. It has Bates</p> <p>11 number FRX-AT-01779498.</p> <p>12 Do you see that, sir?</p> <p>13 A. Yes.</p> <p>14 Q. Have you seen this document</p> <p>15 before?</p> <p>16 A. Yes.</p> <p>17 Q. It bears a Devlin exhibit</p> <p>18 sticker from your August 21, 2014 New York</p> <p>19 AG deposition. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And what is this document, sir?</p> <p>22 A. It's a press release that</p> <p>23 announces a plan to discontinue sale of</p> <p>24 Namenda IR.</p> <p>25 Q. And was, as far as you know,</p>	<p style="text-align: right;">Page 180</p> <p>[REDACTED]</p> <p>2 Q. So Forest sent out thousands of</p> <p>3 such notices; is that correct?</p> <p>4 A. I don't know the number, but we</p> <p>5 did communicate with others, yes.</p> <p>6 Q. Any idea the magnitude, 5,000</p> <p>7 e-mails, 100,000?</p> <p>8 A. I just know in my area it was</p> <p>9 probably several hundred.</p> <p>10 Q. In your area, what was your</p> <p>11 area, again?</p> <p>12 A. Insurance companies, health</p> <p>13 plans, pharmacy benefit management</p> <p>14 companies.</p> <p>15 Q. So you contacted all those --</p> <p>16 all those companies; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. But other folks dealing with</p> <p>19 physicians or long-term care facilities or</p> <p>20 others would be responsible for</p> <p>21 communicating to their customers or their</p> <p>22 audience, correct?</p> <p>23 A. I believe so, yeah.</p> <p>24 Q. Did you participate in any</p> <p>25 meetings where the topic was, you know, the</p>
<p style="text-align: right;">Page 179</p> <p>1 this the first press release announcing</p> <p>2 that plan?</p> <p>3 A. As far as I know, yes.</p> <p>4 Q. So this is February 14th, 2014,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. All right. You can put that</p> <p>8 aside, sir.</p> <p>9 Now, in connection with the</p> <p>10 announcement to discontinue IR and move to</p> <p>11 XR, isn't it correct that Forest also</p> <p>12 engaged in a fairly extensive information</p> <p>13 media campaign to contact caregivers,</p> <p>14 physicians, others, about this</p> <p>15 announcement?</p> <p>16 MR. TOTO: You are talking</p> <p>17 about the February 14th, Exhibit 21, right?</p> <p>18 MR. SORENSEN: Yes.</p> <p>19 MR. TOTO: Okay.</p> <p>20 A. Yes, [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p style="text-align: right;">Page 181</p> <p>1 scope or how to communicate this message of</p> <p>2 withdrawal as widely as possible?</p> <p>3 A. I remember some discussion</p> <p>4 about the press release and about notifying</p> <p>5 customers of what our plan was, but the</p> <p>6 extent and the numbers of customers that</p> <p>7 were being contacted, I don't recall</p> <p>8 specific numbers.</p> <p>9 Q. Was there a person or persons</p> <p>10 in charge of that kind of media or</p> <p>11 information publicity campaign?</p> <p>12 A. I don't know if it was the</p> <p>13 brand team responsibility or if it was</p> <p>14 Corporate Communications' responsibility</p> <p>15 for that. I don't know.</p> <p>16 Q. Who was in charge of Corporate</p> <p>17 Communications at this time?</p> <p>18 MR. TOTO: Counsel, which</p> <p>19 30(b)(6) topic is this encompassed within?</p> <p>20 MR. SORENSEN: I think it is</p> <p>21 within topic 6, strategy.</p> <p>22 MR. TOTO: I don't believe so.</p> <p>23 I object, beyond the scope.</p> <p>24 Q. Go ahead.</p> <p>25 A. At the time I believe it might</p>

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<p style="text-align: right;">Page 230</p> <p>1 Q. Right, okay. And you had 2 responsibilities for Lexapro of some type? 3 A. Well, I had the same 4 responsibilities then as I did with 5 Namenda, which was health plans and PBMs, 6 mail order companies, discounting market 7 access. [REDACTED]</p>	<p style="text-align: right;">Page 232</p> <p>1 you, Mr. Devlin. 2 A. Okay. 3 Q. I know it has been a long day, 4 but I will try to be concise. 5 Just starting on where we left 6 off on Exhibit 33, you received this 7 document in the ordinary course of 8 business, correct, sir? 9 A. Correct. [REDACTED]</p> <p>17 MR. SORESENSEN: Where are you? 18 MR. TOTO: [REDACTED] [REDACTED]</p>
<p style="text-align: right;">Page 231</p> <p>[REDACTED]</p> <p>8 MR. SORESENSEN: With that, I'm 9 done. 10 I will note that we may be in 11 touch about seeking additional, whatever, 12 30(b)(6) witnesses after I consult with my 13 colleagues. It's not clear to me that this 14 was an adequately prepared witness. 15 I'm not trying to argue it. I 16 just wanted to note it, and we may be in 17 touch about that. 18 MR. TOTO: Okay, I understand 19 your position. Our position, as you might 20 imagine, is he was fully prepared, and we 21 object and do not agree to bring any 22 additional witnesses on these topics. And 23 we could talk about it offline. 24 EXAMINATION BY MR. TOTO: 25 Q. I do have some questions for</p>	<p style="text-align: right;">Page 233</p> <p>[REDACTED]</p> <p>11 Q. Okay. Switching topics, 12 throughout your testimony today, a couple 13 of times you used the term "access." Do 14 you recall that? 15 A. Yes. 16 Q. You talked about Part D access 17 and plan access. Do you recall that? 18 A. Yes. 19 Q. Can you explain what you mean 20 by access? 21 A. Yeah. Access is a term that 22 refers to formulary coverage, and, you 23 know, the health plans and payors generally 24 are in commercial markets or Medicare Part 25 D, as the case with Namenda, because they</p>

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<p style="text-align: right;">Page 234</p> <p>1 had a large percentage of the business, a 2 large majority that is paid for through the 3 Medicare Part D program, and there's just a 4 small number of approved plan sponsors that 5 we negotiate with for formulary coverage or 6 access to our products. 7 If you don't have that access, 8 you get literally no business in Medicare. 9 And if you have that access, you get a lot 10 of business. So you have to, in order to 11 gain that access, you have to negotiate and 12 discount your price, and those companies 13 are very formidable negotiators. That's 14 their sole job, is to negotiate the lowest 15 price possible for them and the highest 16 discounts or rebates back from the 17 manufacturer. 18 Q. And did you in fact negotiate 19 with these plans to gain access for Namenda 20 XR? 21 A. We did. We did. They were -- 22 those plans, the access and our success 23 came on over time, and the largest Medicare 24 plan sponsor we were able to gain access in 25 January of 2014, which had a large impact</p>	<p style="text-align: right;">Page 236</p> <p>1 plan sponsor, and preferred means that's 2 the product that they receive the best 3 price for, the product that they then 4 charge the lowest out-of-pocket co-pay for 5 the patient, or they can have a product 6 that will be nonpreferred brand, which will 7 have a higher co-pay for the patient. 8 They can put restrictions in 9 place and barriers to physicians 10 prescribing one product over another 11 through generic step requirements at the 12 point of sale, prior authorizations from 13 physicians, or they can choose to simply 14 not cover the product and force the 15 patient, the Medicare patient to pay full 16 price and reject it. 17 Q. Do plans negotiate for 18 preferential pricing in the form of 19 discounts in return for preferential 20 formulary placement? 21 A. Yes. 22 MR. SORENSEN: Same objections. 23 Go ahead. 24 A. Yes, they do. 25 Q. And did you in fact have those</p>
<p style="text-align: right;">Page 235</p> <p>1 on our Namenda XR uptake. 2 Q. And who was that plan? 3 A. That was United Healthcare 4 AARP, some may call it Optum, you may see 5 it Optum in the spreadsheet, that's the 6 PBM, but it is all owned by United 7 Healthcare, which has the large majority of 8 Medicare beneficiaries. 9 Q. Can you describe how the 10 concept of access is related to formulary 11 coverage? 12 MR. SORENSEN: I will just note 13 an objection. This is outside the scope of 14 the 30(b)(6). But go ahead. 15 MR. TOTO: It is certainly in 16 the scope of what you asked him. Go ahead. 17 MR. SORENSEN: I disagree with 18 that, too. I'm not stopping you from 19 testifying, I'm just noting objections. Go 20 ahead. 21 A. Yeah, so those companies such 22 as United AARP or Silverscript or Humana 23 that I had testified to maintain a 24 formulary, and there can be products on 25 that formulary that are preferred by that</p>	<p style="text-align: right;">Page 237</p> <p>1 negotiations when it came to Namenda XR? 2 MR. SORENSEN: Same objections. 3 I object to this entire line of questions 4 so far. 5 A. We did. It's part of my 6 primary job responsibility. 7 (Devlin Exhibit 34 marked for 8 identification.) 9 Q. Sir, you have been handed 10 Exhibit 34. Do you have that in front of 11 you? 12 A. I do. 13 Q. You are aware, before we get to 14 the specifics of 34, you are aware that -- 15 there was testimony today about a plan that 16 Forest had in the past to withdraw Namenda 17 IR from the market, right? 18 A. Correct. 19 Q. And are you aware that there 20 was a lawsuit brought by the New York 21 Attorney General in response to that plan? 22 A. Yes. 23 MR. SORENSEN: Objection, 24 beyond the scope of the 30(b)(6). 25 Q. And were you deposed in that</p>

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<p style="text-align: right;">Page 238</p> <p>1 case?</p> <p>2 A. I was.</p> <p>3 MR. SORENSEN: Same objections.</p> <p>4 Q. Are you aware of the resolution</p> <p>5 of that case?</p> <p>6 A. Yes, I am.</p> <p>7 MR. SORENSEN: Same objections.</p> <p>8 Q. What was the resolution?</p> <p>9 MR. SORENSEN: Same objections.</p> <p>10 A. Well, there was a, in the</p> <p>11 course of the lawsuit, there was a judge</p> <p>12 that approved an injunction that prevented</p> <p>13 us from implementing the plan to withdraw</p> <p>14 Namenda IR, and then ultimately the court</p> <p>15 ruled in favor of the Attorney General and</p> <p>16 we abandoned that plan. We were not</p> <p>17 allowed to withdraw.</p> <p>18 Q. So did the injunction prohibit</p> <p>19 you from withdrawing IR from the market?</p> <p>20 A. Yes.</p> <p>21 Q. Did the injunction prohibit you</p> <p>22 from limiting the distribution of Namenda</p> <p>23 IR in any way?</p> <p>24 A. Yes.</p> <p>25 MR. SORENSEN: Same objections.</p>	<p style="text-align: right;">Page 240</p> <p>1 It says "Attorney General Eric</p> <p>2 T. Schneiderman today announced that his</p> <p>3 office has resolved the antitrust lawsuit</p> <p>4 it brought in September of 2014, which has</p> <p>5 successfully prevented pharmaceutical</p> <p>6 manufacturer Allergan plc (previously named</p> <p>7 Actavis plc) from forcing Alzheimer's</p> <p>8 patients to switch medications as part of</p> <p>9 an anti-competitive strategy designed to</p> <p>10 maintain higher prices."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And that's a true and correct</p> <p>14 statement, correct?</p> <p>15 MR. SORENSEN: Same objections.</p> <p>16 A. Correct.</p> <p>17 Q. And that's a reliable</p> <p>18 statement, correct?</p> <p>19 MR. SORENSEN: Same objections.</p> <p>20 Beyond the scope.</p> <p>21 A. That's correct.</p> <p>22 Q. It goes on to say "In December</p> <p>23 of 2014, a federal judge granted New York's</p> <p>24 request for an injunction and prohibited</p> <p>25 Allergan from engaging in the controversial</p>
<p style="text-align: right;">Page 239</p> <p>1 Q. Did Forest fully comply --</p> <p>2 MR. SORENSEN: Hold on. I'm</p> <p>3 sorry.</p> <p>4 I also object insofar as you</p> <p>5 are asking for legal conclusions and it is</p> <p>6 all beyond the scope of the 30(b)(6).</p> <p>7 MR. TOTO: Just state your</p> <p>8 objections and let's move on.</p> <p>9 Q. Did the injunction prohibit</p> <p>10 Forest from limiting the distribution of</p> <p>11 Namenda IR in any way?</p> <p>12 MR. SORENSEN: Same objections.</p> <p>13 A. Yes, the injunction prohibited</p> <p>14 us from limiting the distribution of IR.</p> <p>15 Q. Now turning to Exhibit 34, do</p> <p>16 you recognize this to be a press release</p> <p>17 from the New York Attorney General's office</p> <p>18 announcing the resolution of that lawsuit?</p> <p>19 A. Yes.</p> <p>20 MR. SORENSEN: If you could</p> <p>21 please just give me a chance to object.</p> <p>22 Same objections, and I object</p> <p>23 to the document as hearsay. But go ahead.</p> <p>24 Q. Now, you'll see -- well, let me</p> <p>25 just read part of this to you.</p>	<p style="text-align: right;">Page 241</p> <p>1 tactic sometimes called a forced switch,</p> <p>2 which would have needlessly disrupted the</p> <p>3 treatment plans of these patients solely to</p> <p>4 protect corporate profits."</p> <p>5 Do you see that?</p> <p>6 A. I see that.</p> <p>7 Q. And that was the injunction you</p> <p>8 just referred to a little bit earlier,</p> <p>9 correct?</p> <p>10 MR. SORENSEN: Same objections.</p> <p>11 A. Correct.</p> <p>12 Q. That is a correct and reliable</p> <p>13 statement; is that right?</p> <p>14 MR. SORENSEN: Same objections.</p> <p>15 Beyond the scope, hearsay.</p> <p>16 A. That's correct.</p> <p>17 Q. It goes on to say "Because the</p> <p>18 injunction protected competition and</p> <p>19 allowed low-cost generic drugs to enter the</p> <p>20 market unimpeded, the Attorney General's</p> <p>21 office has determined that it is no longer</p> <p>22 necessary to continue legal action."</p> <p>23 Do you see that?</p> <p>24 A. Yes, I see that.</p> <p>25 Q. Is that a correct and reliable</p>

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<p style="text-align: right;">Page 242</p> <p>1 statement?</p> <p>2 MR. SORESENSEN: Same objections,</p> <p>3 beyond the scope, calls for hearsay, lack</p> <p>4 of foundation. Go ahead.</p> <p>5 A. That's correct.</p> <p>6 Q. Going on, it says "Our lawsuit</p> <p>7 prevented Allergan from pursuing its plan</p> <p>8 to block competition, thus preserving</p> <p>9 patient choice for hundreds of thousands of</p> <p>10 Alzheimer's patients, and protecting the</p> <p>11 public from bearing hundreds of millions of</p> <p>12 dollars in unnecessary drug costs,' said</p> <p>13 Attorney General Schneiderman."</p> <p>14 That's what it says, right?</p> <p>15 A. Yes.</p> <p>16 Q. Is that a true and reliable</p> <p>17 statement?</p> <p>18 MR. SORESENSEN: Objection, same</p> <p>19 objections, beyond the scope, calls for</p> <p>20 hearsay, lack of foundation.</p> <p>21 A. Yes.</p> <p>22 Q. If you turn to the second page</p> <p>23 of Exhibit 34, and look at the first full</p> <p>24 paragraph there, it says "As a result of</p> <p>25 the injunction, Alzheimer's patients have</p>	<p style="text-align: right;">Page 244</p> <p>1 patients who wished to remain on IR during</p> <p>2 early 2015 and then switch to the generic</p> <p>3 version when it became available over the</p> <p>4 summer were able to do so without any</p> <p>5 disruption in their medical treatment."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Was that a true and reliable</p> <p>9 statement?</p> <p>10 MR. SORESENSEN: Same objections,</p> <p>11 beyond the scope, lack of foundation,</p> <p>12 hearsay.</p> <p>13 A. Yes.</p> <p>14 Q. I'm only going to read a few</p> <p>15 more sentences.</p> <p>16 "In addition, Alzheimer's</p> <p>17 patients who wish to take Namenda XR</p> <p>18 instead of Namenda IR are also free to do</p> <p>19 so."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Is that a true and reliable</p> <p>23 statement?</p> <p>24 MR. SORESENSEN: Same objections.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 243</p> <p>1 not been forced to switch from Namenda IR</p> <p>2 to Namenda XR and instead have been able to</p> <p>3 select which drug to use based on their and</p> <p>4 their physician's views of which drug is</p> <p>5 best for them."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Was that a true and reliable</p> <p>9 statement?</p> <p>10 MR. SORESENSEN: Objection,</p> <p>11 beyond the scope; objection, hearsay;</p> <p>12 objection, lack of foundation.</p> <p>13 A. Yes, I believe it to be true</p> <p>14 and reliable.</p> <p>15 Q. It goes on to say "By summer</p> <p>16 2015, low-cost generic versions of Namenda</p> <p>17 IR became widely available in the market."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Was that a true and reliable</p> <p>21 statement?</p> <p>22 MR. SORESENSEN: Same objections.</p> <p>23 A. Yes.</p> <p>24 Q. It continues, "Accordingly, as</p> <p>25 a result of the Attorney General's lawsuit,</p>	<p style="text-align: right;">Page 245</p> <p>1 Q. And your answers to my</p> <p>2 questions about this document were based on</p> <p>3 your experience at Forest and your</p> <p>4 involvement in the lawsuit, correct?</p> <p>5 MR. SORESENSEN: Same objections.</p> <p>6 A. That's correct.</p> <p>7 Q. You can put that document</p> <p>8 aside.</p> <p>9 Now, sir, Mr. Sorensen asked</p> <p>10 you a few questions today, well, a bunch of</p> <p>11 questions, let's say, about forecasts for</p> <p>12 the expected conversion from Namenda IR to</p> <p>13 XR; do you recall many questions on that?</p> <p>14 A. Yes.</p> <p>15 Q. And you also looked at a bunch</p> <p>16 of documents that had different numbers on</p> <p>17 them when it came to that -- the forecasted</p> <p>18 conversion rate; do you recall that?</p> <p>19 A. Yes.</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>

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[REDACTED]

Page 260

[REDACTED]

9 MR. SORENSEN: Move to strike
10 that entire speech as nonresponsive and
11 beyond the scope.
12 (Devlin Exhibit 37 marked for
13 identification.)
14 Q. Do you have Exhibit 37 in front
15 of you, sir?
16 MR. TOTO: And I oppose the
17 motion to strike.
18 Q. Do you have that exhibit in
19 front of you?
20 A. I do.
21 Q. You see this is an e-mail
22 chain, the top e-mail is dated December
23 18th, 2013?
24 A. Yes.
25 Q. Now, by definition, that's just

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[REDACTED]

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1 prior to the January or early 2014 period
2 that you just mentioned, correct?
3 A. Correct.

[REDACTED]

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<p style="text-align: right;">Page 262</p> <p>[REDACTED]</p> <p>22 MR. SORENSEN: Objection,</p> <p>23 leading. Objection, beyond the scope.</p> <p>[REDACTED]</p>	<p style="text-align: right;">Page 264</p> <p>1 other words, you know, after December 2014</p> <p>2 into 2015; is that right?</p> <p>3 MR. SORENSEN: Objection,</p> <p>4 leading. Go ahead.</p> <p>5 A. That's about right.</p> <p>6 MR. TOTO: I think the record</p> <p>7 will reflect that.</p> <p>8 MR. SORENSEN: It doesn't make</p> <p>9 it not leading.</p> <p>10 Q. Now, after the injunction</p> <p>11 issued, is there any reason that a patient</p> <p>12 that was on XR at that point in time</p> <p>13 couldn't switch back to Namenda IR prior to</p> <p>14 the loss of exclusivity of Namenda IR?</p> <p>15 MR. SORENSEN: Objection,</p> <p>16 leading, beyond the scope.</p> <p>17 A. No. I think as I testified</p> <p>18 before, the patients had, and physicians,</p> <p>19 had the choice, they could have changed</p> <p>20 from XR back to IR if they wanted to, or IR</p> <p>21 to XR, both were available, there was no --</p> <p>22 there was no withdrawal. There was no</p> <p>23 limited distribution or restriction of any</p> <p>24 kind.</p> <p>25 Q. After the injunction issued,</p>
<p style="text-align: right;">Page 263</p> <p>4 MR. SORENSEN: Same objections.</p> <p>[REDACTED]</p> <p>20 Q. Okay. Now, Mr. Sorensen asked</p> <p>21 you a lot of questions about the period</p> <p>22 2014 and earlier, right?</p> <p>23 A. Yes.</p> <p>24 Q. He didn't really ask you any</p> <p>25 questions about after the injunction, in</p>	<p style="text-align: right;">Page 265</p> <p>1 did you stop promoting XR?</p> <p>2 A. No.</p> <p>3 Q. Did you continue to promote it</p> <p>4 aggressively?</p> <p>5 A. We did.</p> <p>6 MR. SORENSEN: Same objections,</p> <p>7 beyond the scope and leading. Go ahead.</p> <p>8 A. Yes, we did.</p> <p>9 Q. You had some -- there were a</p> <p>10 number of questions about communications</p> <p>11 about the withdrawal, when that was -- when</p> <p>12 that was announced in and around February</p> <p>13 2014. Do you recall those questions?</p> <p>14 A. Yes.</p> <p>15 Q. A block of questions about</p> <p>16 letters that were sent out or</p> <p>17 communications plan, that kind of thing?</p> <p>18 A. Yes.</p> <p>[REDACTED]</p> <p>22 MR. SORENSEN: I object insofar</p> <p>23 as you objected to my questions about those</p> <p>24 communications as beyond the scope and yet</p> <p>25 you're asking about it. But go ahead.</p>

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1 CERTIFICATION
 2
 3 I, TODD DeSIMONE, a Notary Public for
 4 and within the State of New York, do hereby
 5 certify:
 6 That the witness whose testimony as
 7 herein set forth, was duly sworn by me; and
 8 that the within transcript is a true record
 9 of the testimony given by said witness.
 10 I further certify that I am not related
 11 to any of the parties to this action by
 12 blood or marriage, and that I am in no way
 13 interested in the outcome of this matter.
 14 IN WITNESS WHEREOF, I have hereunto set
 15 my hand this 30th day of August, 2017.
 16
 17
 18
 19
 20 *Todd Desimone*
 21 _____
 22 TODD DESIMONE
 23 * * *
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 25

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1 ERRATA SHEET
 VERITEXT/NEW YORK REPORTING, LLC
 2
 CASE NAME: IN RE NAMENDA
 3 DATE OF DEPOSITION: 8/29/17
 WITNESS' NAME: MARK DEVLIN
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PAGE/LINE(S)/	CHANGE	REASON
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 20 _____
 21 MARK DEVLIN
 22 SUBSCRIBED AND SWORN TO
 BEFORE ME THIS _____ DAY
 23 OF _____, 2017.
 24 _____
 25 NOTARY PUBLIC
 MY COMMISSION EXPIRES _____

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